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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,458	05/25/2005	Takeshi Kamata	050335	6475
23850 7590 11/09/2007 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005			EXAMINER NGUYEN, CHAU N	
			ART UNIT 2831	PAPER NUMBER
			MAIL DATE 11/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,458

Applicant(s)

KAMATA ET AL.

Examiner

Chau N. Nguyen

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 8, 9, 12-15, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 5-7, 10, 11, 16, 17, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/30/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5, 10, 17 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzgeralds et al. (2,989,943).

Fitzgerald et al. (Figure 2) discloses a covered wire having an electrical conductive core and a unicolor cover portion of synthetic resin for covering the core, comprising a plurality of marks (15) being formed by coloring a part of an outer surface of the cover portion with a color, the marks being disposed with a gap therebetween along lengthwise of the covered wire, wherein the marks are made by spouting a predetermined amount of a liquid coloring material of the color against the outer surface of the cover portion of the covered wire from a plurality of nozzles (20, 21), all of which being oriented in the same direction toward the wire (all the nozzles are oriented in an axial direction or axially toward the wire)

(re claim 5). Fitzgeralds et al. also discloses the color being selected respectively for the covered wires as capable to distinguish each covered wire (re claim 10), each nozzle being joined with a valve, which is joined with a compressed-gas supply source, and is spouted by the compressed-gas supplied from the compressed-gas supply source when the valve is opened (re claims 17 and 21).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35

U.S.C. 103(a).

5. Claims 6, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgeralds et al. in view of JP'918.

Fitzgeralds et al. discloses the invention substantially including a plurality of further marks (16) provided between a pair of said marks adjacent to each other by coloring a part of the outer surface of the cover portion with a further color different from said color and disposed with a space along the lengthwise of the covered wire. Fitzgeralds et al. does not disclose the further marks being means for distinguishing wire diameters as capable to distinguish outer diameters of the cover portions and provided with plural pieces (re claims 6, 7 and 11).

JP'918 discloses a cable comprising a plurality of marks and a plurality of further marks (82) which are means for distinguishing wire diameters as capable to distinguish outer diameters of the cover portions. It would have been obvious to one skilled in the art to provide the further marks (16) of Fitzgeralds et al. as means for distinguishing wire diameters as taught by JP'918 to identify the wire diameters the covered wires. It would also have been obvious to one skilled in the art to modify the means (the further marks 16) of Fitzgeralds et al. to have plural pieces to

meet the specific use of the resulting covered wire, such as more attractive, since it has been held that constructing a formerly integral structure into various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

6. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgeralds et al. in view of Johnstone.

Fitzgeralds et al. discloses the invention substantially as claimed except for the coloring material being a liquid material dissolving and dispersing color material in a solvent. Johnstone discloses a cable comprising coloring marks, wherein the coloring material is a liquid material dissolving and dispersing color material in a solvent (page 1, lines 57-65). It would have been obvious to one skilled in the art to use the coloring material as taught by Johnstone for the coloring material of Fitzgeralds et al. to provide permanent marks which will remain on the cable even after the latter has been subjected to severe abrasion in use.

Allowable Subject Matter

7. Claims 1-4, 8, 9, 12-15, 18, and 19 are allowed. Noted that **claim 1 is allowed only if "the marks" recited in line 10 of claim 1 is changed to --the first and second marks--**.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest a covered wire and a method of distinguishing covered wires comprising all the features as recited in the claims and in combination with all of the nozzles being oriented in the same direction perpendicular to the wire (re claims 1 and 8).

Response to Arguments

9. Applicant's arguments filed 8/31/2007 have been fully considered but they are not persuasive. Applicant again alleges that the nozzles of Fitzgerald et al. are not all oriented in the same direction toward the wire. Examiner disagrees. As clearly shown in Figures 1 and 2 of Fitzgerald et al., nozzles 20-23 (through the apertures 28) are all oriented in the same direction toward the wire.

Summary

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the

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advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N. Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutiérrez can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Chau N Nguyen
Primary Examiner
Art Unit 2831